

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-7, SUB 1017

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Investigation Regarding the Approval and) ORDER INITIATING
Closing of the Business Combination of) INVESTIGATION AND
Duke Energy Corporation and Progress) SCHEDULING HEARING
Energy, Inc.)

BY THE COMMISSION: On April 4, 2011, Duke Energy Corporation (Duke) and Progress Energy, Inc. (Progress; collectively, Applicants), filed an application in Docket Nos. E-2, Sub 998 and E-7, Sub 986 (Merger Dockets), requesting that the Commission approve their proposed merger. Attached to the application as Exhibit C was a document entitled Employment Agreement Term Sheet William D. Johnson (Johnson Employment Agreement). The Johnson Employment Agreement states that Duke will take action to effectuate a new employment agreement with Johnson. Paragraph No. 2 of the Johnson Employment Agreement states that Johnson will be named the President and CEO of Duke effective upon the merger. Paragraph No. 3 of the Johnson Employment Agreement states that Johnson will have a three-year term of employment commencing upon the closing of the merger.

On May 20, 2011, James Rogers and William Johnson filed joint written testimony with the Commission in the Merger Dockets in support of the proposed merger of Duke and Progress. In that testimony, Rogers stated that he would be the Executive Chairman of the board of the combined company, and Johnson stated that he would be President and Chief Executive Officer of the combined company.

On September 20, 21, and 22, 2011, and June 25, 2012, the Commission held hearings to receive testimony in the Merger Dockets. During the hearing on September 20, 2011, Rogers and Johnson testified jointly under oath. As part of their testimony, Rogers and Johnson reaffirmed the accuracy of the testimony they filed with the Commission on May 20, 2011.

On June 29, 2012, the Commission issued its Order Approving Merger Subject to Regulatory Conditions and Code of Conduct.

On July 2, 2012, the Applicants closed the merger transaction.

On July 3, 2012, Duke announced that Rogers would replace Johnson as President and CEO of Duke. The Commission was not informed by the Applicants at

any time prior to July 3, 2012 that Rogers would replace Johnson as President and CEO of Duke.

Based upon the foregoing, the record in the Merger Dockets and G.S. 62-37, the Commission finds good cause to initiate this investigation. As the first step in this investigation, the Commission finds good cause to require James Rogers to appear before the Commission on Tuesday, July 10, 2012, at 2:00 p.m., to provide testimony in this investigation addressing the timing of the decision to replace Johnson with Rogers, as well as other related matters. Further, the Commission directs Duke and Progress to take all necessary actions to preserve all letters, agreements, notes, minutes, memos, emails, and other written and recorded documents and records directly or indirectly relating in any way to the merger, the integration of the two companies and the discussions and decision to replace Johnson with Rogers as President and CEO of Duke.

IT IS, THEREFORE, ORDERED as follows:

1. That a hearing shall be, and is hereby, scheduled for Tuesday, July 10, 2012, at 2:00 p.m., in Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, for the Commission to hear from and ask questions of James Rogers.
2. That James Rogers shall appear at the hearing on Tuesday, July 10, 2012, at 2:00 p.m., and provide testimony and respond to questions by the Commission.
3. That Duke and Progress shall take all necessary actions to preserve all letters, agreements, meeting minutes, memos, emails, and other written and recorded documents and records directly or indirectly relating in any way to the merger, the integration of the two companies and the discussions and decision to replace Johnson with Rogers as President and CEO of Duke.

ISSUED BY ORDER OF THE COMMISSION.

This the 6th day of July, 2012.

NORTH CAROLINA UTILITIES COMMISSION



Patricia Swenson, Deputy Clerk

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